

REMARKS

Favorable reconsideration and allowance of the subject application are respectfully requested. Claims 1-22 are pending in the present application, with claims 1, 21, and 22 being independent. Claim 22 has been indicated as being allowed on page 2 of the Advisory Action.

Interview Summary

Applicant's representative would like to thank the Examiner for the personal interview conducted on Friday, January 10, 2003. During the interview, Applicant's representative asserted that the cited prior art fails to teach or suggest (1) clock modules for keeping a time synchronized between a user terminal and a server; or (2) that the user terminal repeatedly transmits a shared data update request until the request is received by the server, as recited in independent claim 1. It was also noted that Reuss et al. teaches away from the present application, by specifically teaching that "[i]t is an additional object of the present invention to eliminate the necessity of ensuring that network elements are time-synchronized with each other....," see col. 4, lines 42-45. The Examiner, however, did not find these arguments persuasive, and an agreement with respect to the claims was not reached.

Claim Rejections Under 35 U.S.C. §103

Claims 1-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Reuss et al.* (US 5,579,318) in view of *Yazaki* (US 6,055,545). This rejection is respectfully traversed for the third time.

As outlined in the Amendments submitted on December 13, 2002 and August 27, 2002, and as stated during the Interview, the cited prior art, either alone or in combination (which combination Applicant does not admit) fails to teach or suggest: (1) a clock module for keeping a time synchronized between the user terminal and the server, whereby each of the user terminals and the server have clock modules; or (2) that the user terminal repeatedly transmits a shared data update request until the request is received by the server, as recited in independent claim 1.

The Examiner's attention is once again directed to col. 4, lines 42-45, of *Reuss et al.*, wherein it states that "...it is an additional object of the present invention to eliminate the necessity of ensuring that network elements are time-synchronized with each other in order for their databases properly to be maintained concurrent." MPEP §2145(X)(D)(1) specifically states that "[a] prior art reference that 'teaches away' from the claimed invention is a significant factor to be considered in determining obviousness." As such, it should be apparent that *Reuss et al.*

teaches away from the present invention, because Reuss et al. eliminates the necessity of ensuring that network elements are time-synchronized with each other. Therefore, **Reuss et al. is not a proper reference for establishing prima facie obviousness.**

To establish a prima facie case of obviousness, three basic criteria must be met: (1) there must be some suggestion of motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) **the prior art reference must teach or suggest all the claim limitations**, see *In re Vaeck*, 947 F.2d 48, 20 USPQ2d 1438 (Fed.Cir.1991).

The Examiner alleges, in rejecting claims 1-21 under 35 U.S.C. §103, that "Reuss teaches a time synchronized clock as **inherent data in the header**," (emphasis added) and that "Reuss's suggestions are not mutually exclusive and do not obfuscate the historical teachings that data updates depend on their time stamps and computers's clocks." Applicant once again submits that **these conclusionary statements made by the Examiner are not a proper basis to substantiate an obviousness rejection. In re Lee**, 61 USPQ2d 1430 (CAFC 2002).¹

¹ see pages 4-6 of the amendment submitted on December 13, 2002 for a complete discussion of *In re Lee*.

Moreover, and as stated during the interview, none of the cited prior art teaches that a user terminal repeatedly transmits a shared data update request until the request is received by the server, as recited in claim 1. For example, referring to Fig. 10 of *Reuss et al.* it can be easily seen that if SCP1 is not available, the system attempts to route to a different server and does not repeatedly transmit a request until the request is received by the server. As such, Applicant once again submits that the cited prior art is not obvious in view of the pending claims.

Yazaki et al. is directed to an updating and reference management system of a shared memory. One skilled in the art would not look towards *Yazaki et al.*, to make up for the previously mentioned deficiencies of *Reuss et al.* As stated above, in order to establish a prima facie case of obviousness, *there must be some suggestion of motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings.* *Yazaki et al.* contains absolutely no teachings regarding a network, much less a user terminal, server, clock modules or time synchronization between a user terminal and server, and therefore **there is absolutely no motivation to combine *Yazaki et al.* with *Reuss et al.***, as alleged by the Examiner.

Accordingly, in view of the above discussion, Applicant

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respectfully requests that the Examiner withdraw the rejections to claims 1-21, and further the claims to allowance.

Conclusion

In view of the above amendments and remarks, this application appears to be in condition for allowance and the Examiner is, therefore, requested to reexamine the application and pass the claims to issue.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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